Remarks

In view of the following remarks, Applicant respectfully requests reconsideration and allowance of the subject application. Claim 1, 3-12, 14-25, 27-31, 34-35, and 37-43 are pending of which claims 1, 11, 20, 28, 35, and 40 have been amended. Claims 2 and 13 are canceled herein without prejudice.

Statement of Substance of Interview 3/14/07

Initially, Applicant wishes to thank Examiner Lewis Bullock Jr. for conducting a telephonic interview with Applicant's attorney, Daniel T. McGinnity, on March 14th, 2007. In the interview, Applicant's attorney submitted the differences between the cited references Du and Feridun and the claimed subject matter. In particular, it was asserted that the rules nodes relied upon from Du in rejecting the claims are not equivalent to the recited "update consumer". For at least this reason, the references of record, either alone or in combination, fail to disclose, teach, or suggest all the claimed features of the Applicant's claims.

Nevertheless, in the interest of expediting allowance of the subject application and without conceding the propriety of the outstanding rejections, amendments to one or more of the independent claims to further clarify "update consumer" as recited in claim 1 were discussed. The Examiner provided helpful input on potential amendments to the claims. Accordingly, each of the independent claims is amended herein to include subject matter discussed during the interview. No agreement was reached. The Examiner indicated that he would need to consider the amendments in writing and update his search.

Applicant submits that all of the pending claims are in condition for allowance. If any issues remain that would prevent the allowance of the application, Applicant requests that the Examiner contact the undersigned attorney to resolve the issues.

35 U.S.C. §101 Rejections

Claims 28-31 and 34 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Applicant respectfully disagrees. However, in the interest of expediting allowance of the subject application and without conceding the propriety of the outstanding rejections, claim 28 has been amended herein. Claims 28-31 and 34 as presently recited satisfy the requirements of 35 U.S.C. §101. Therefore, the 35 U.S.C. §101 rejections have been obviated.

35 U.S.C. §103 Rejections

Claims 1-25, 27-31, 34-35, and 37-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,041,306 to Du et al. (herein "Du") in view of U.S. Patent No. 6,336,139 to Feridun et al. (herein "Feridun").

Applicant respectfully disagrees. However, in the interest of expediting allowance of the subject application and without conceding the propriety of the outstanding rejections, each of independent claims 1, 11, 20, 28, 35, and 40 has been amended to clarify aspects of the claimed subject matter. The references of record, alone or in combination, fail to disclose, teach, or suggest the subject

matter of the Applicant's claims as presently recited. Accordingly withdrawal of the 35 U.S.C. §103 rejections of claims 1-25, 27-31, 34-35, and 37-43 is respectfully requested. For example:

Claim 1 as amended (portions of the amendment appear in bold/italics) recites a computer-implemented method comprising:

- receiving a plurality of events;
- applying the plurality of events to a correlation function, wherein the correlation function is implemented as a state machine and is configured to correlate the plurality of events;
- identifying an event to which an update consumer has subscribed, wherein the update consumer is:
    - *a class object separate from the state machine; and*
    - *configured to update the state machine when the event to which the update consumer has subscribed occurs;*
- applying the update consumer to the state machine in response to the identified event; and
- generating a specific event if the correlation function is satisfied by the plurality of events.

Support for this amendment can be found throughout Applicant's Specification and Drawings as filed. Particular attention, however, is drawn to original claim 2 and the Specification, FIG. 5; FIG. 7; and p. 15 line 23 - p. 19 line 15. These examples describes update consumers implemented as class objects and applied to state machines within the spirit of the amendments made in the independent claims.

Claim 1 recites "identifying an event to which an update consumer has subscribed, wherein the update consumer is: a class object separate from the state machine; and configured to update the state machine when the event to which the

update consumer has subscribed occurs; applying the update consumer to the state machine in response to the identified event". The Office has acknowledged previously during prosecution that Feridun fails to disclose, teach or suggest these features. In particular, the Office stated "Ferdiun does not teach applying the update consumer to the state machine in response to the identified event" *Office Action dated 12/23/05, p. 2.* Applicant agrees. In the present rejections, Du is relied upon for these recited features. However, Du does not correct the acknowledged defects in Feridun.

In making out the rejection of claim 1, the Office asserts that Du teaches "a function implemented as a state machine (rule node state machine)" and "an update consumer (rule) . . . wherein the update consumer (rule) is associated with the state machine (rules defined in the rule node will then be evaluated by the Open PM engine)". *Office Action, p. 3.* In doing so, the Office equates the rules of Du with the recited "update consumer". Applicant respectfully disagrees. However, assuming for the sake of argument only that this is correct, the proposed combination of Du and Feridun still lacks an "update consumer" which is (1) a class object separate from the state machine; and (2) configured to update the state machine when the event to which the update consumer has subscribed occurs.

Du describes rules which are integrated as part of a rules node state machine. For example, the following excerpted portions of Du explain rule nodes

which integrate rules and a rule node instance state machine as part of the rule

nodes:

Rule Node Instance State Machine

FIG. 12 shows the rule node instance state machine 229 for the RNIM for use with the workflow process software engine of FIG. 4. *Du, col. 20 lines 1-4* (emphasis added).

A rule node 142 is started whenever one of its inward arcs has been traversed. Rules **defined in the rule node** 142 will then be evaluated by the OpenPM engine 20. **Rules in the rule node 142 are also evaluated** when one of the events to which it subscribes occurs. *Du, col. 20 lines 17-21* (emphasis added).

The rule node instance state machine 229 of each rule node 142 starts from the Initial state 230 and moves to an Active state 232 via a Transverse Inward Arc 231. The rule node instance state machine 229 remains in the Active state 232 even after its outward arcs have been fired. In the Active state 232, a rule node 142 reacts to the events to which it has subscribed via a Process Event arc 233. The rule node 142 can move to the Suspended state 236 via a Suspend arc 234 either explicitly in response to a user request or implicitly when the process instance is suspended. In the Suspended state 236, the rule node 142 can move to the Active state 232 via a Resume arc 237. The rule node 142 can be terminated via a Terminate arc 235, 238 by being unsubscribed from all previously subscribed events. Reset arcs have no effect rule nodes 142. *Du, col. 20 lines 33-48* (emphasis added).

Per the above excerpted passages from Du rules are described as "defined in the rule node" and "rules in the rule node". The rules thus are integrated as part of the rules node state machine which implements the rules node. Thus, while Du does describe a rules node instance state machine having integrated rules and

rules nodes, there is no basis in Du for an update consumer which is " a class object separate from the state machine" as recited in claim 1.

Further, the rules of Du perform different functions and thus are not equivalent to the update consumer as presently recited. Du is concerned with work flow. Thus, Du described state machines and rules which are directed at controlling the flow within a process as in the following excerpt:

> Each rule node 142 specifies a process flow which typically goes beyond a simple sequence of steps and involves logic and decision points. A rule language is used to define rule node 142 decisions. When invoked during runtime, the rule node 142 decides which outgoing arcs to fire based upon the status information passed along incoming arcs, the time at which each incoming arc was fired and process-relevant data associated with the process instance. Each rule node 142 can also initiate an event (not shown) when certain conditions, as defined in by the rules, are met. Conversely, an event can activate a rule node 142 that has subscribed to the event. *Du, col. 11, lines 53-65.*

Per this excerpted portion, the rules nodes of Du are decisions point to determine which action to take next, which can be seen for example in Du, FIG. 8. However, while Du describes rules to determine process flow, Du does not provide any basis for rules related to a correlation function, or a correlation function which is "implemented as a state machine and is configured to correlate the plurality of events" as in claim 1. The Office acknowledges that Du does not provide a basis for correlation as recited in the claims. In particular, the Office states that Du does not mention "that the function performed by the state machine

to the events is correlation". *Office Action dated 12/14/2006, p. 4.* Applicant agrees. Thus, the rules relied upon are not equivalent to the recited "update consumer" for which they are cited.

Thus, there is no update consumer in Feridun, which is acknowledged by the Office. There is no correlation in Du, which is also acknowledged by the Office. The rules relied upon from Du are not equivalent to the recited "update consumer" for which they are cited. Further neither, Du or Feridun describes an update consumer which is a class object. Further, as described above the rules nodes relied upon from Du are an integrated part of the state machine. Accordingly, there is no way to combine Du with Feridun and somehow arrive at "update consumer" which is (1) a class object separate from the state machine; and (2) configured to update the state machine when the event to which the update consumer has subscribed occurs as recited in claim 1. For at least these reasons, claim 1 is allowable over the proposed combination of Du and Feridun.

Further, the Applicant asserts that claim 1 is also allowable because motivation for the proposed combination of references is lacking. As the Examiner is likely aware there is a requirement for a §103 rejection that there must be some reason, suggestion, or motivation *from the prior art*, as a whole, for the person of ordinary skill to have combined or modified the references. *See, In re Geiger,* 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987). It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. One

cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fritch,* 23 USPQ 2d 1780, 1784 (Fed. Cir.1992).

For the stated motivation to combine Du and Feridun the Office offers that:

> "it would be obvious to one of ordinary skill in the art that since the rules instance state machine has transitions and states that are manipulated by received events as detailed in Du that the state machine is the same state machine of Feridun. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Du with the teachings of Feridun in order to implement a set of simple or low-level correlation rules, each of which may be useful in recognizing a pattern of one or more events indicative of a given condition sought to be monitored and/or controlled (col. 2, lines 4-9). *Office Action p. 5.*

Applicant disagrees that this provides sufficient motivation to combine. In effect the stated motivation argues that it would be obvious to combine the references because they are the same or have common features. This is not sufficient motivation to explain why one would combine the references in the manner required and does not make logical sense. If the inventions are the same, there is in fact no reason that one would combine them. Further, the passage from Feridun (col. 2, lines 4-9) relied upon as motivation merely states an object of Ferdiun which is presumably already achieved by the techniques of Feridun without a combination with Du. Further, if the assertion of the Office that the state machine in Du is the same state machine of Feridun is taken as true, then

presumably the object would also be achieved by Du without a combination with Feridun. Thus, the basis given for combining the references is wholly insufficient.

In fact this is precisely the type of piecing together of the prior art by hindsight which the motivation requirement is designed to guard against. The relied upon statement from Feridun merely explains why the techniques in Feridun might be employed. However, it does not provide a convincing line of reasoning as to why one of ordinary skill would choose particular elements from Du and Ferdiun and arrange them in the manner required by the Applicant's claims. Thus, motivation to combine the references is lacking for at least this reason.

For at least the foregoing reasons, claim 1 as presently recited and its associated dependent claims are allowable over the art of record and withdrawal of the §103 rejection is respectfully requested.

Claims 11, 20, 28, 35, and 40 have been amended to include features similar to those discussed with respect to claim 1. Applicant respectfully submits that, as discussed in the interview, the proposed combination of references fails to disclose, teach, or suggest the features of Applicant's claims as presently recited. As such, claims 11, 20, 28, 35, and 40 and their associated dependent claims are allowable and withdrawal of the §103 rejection is respectfully requested.

Conclusion

The Application is in condition for allowance. The Applicant respectfully

requests reconsideration and issuance of the present application. Should any issue

remain that prevents immediate issuance of the application, the Examiner is

requested to contact the undersigned attorney to discuss the unresolved issue.

Respectfully submitted,

Date: 4/13/07   By: /Daniel T. McGinnity, #55,444/

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